

To: Policy and Governance Committee (Commissioners Randolph and Peterman)
From: Rachel Peterson, Dave Gamson, Leuwam Tesfai
Re: Commission Communications Log: Focus group feedback, initial recommendations

We held two focus group meetings in January 2016: one for Commission staff who regularly interact with the public and parties, and one for parties that regularly appear before the Commission. Commission IT staff attended both focus groups. Attendees are listed at the end of this memo. This memo reflects input we received at the focus groups and our recommendations for the communications log.

Our evaluation of the log is part of this committee's larger effort to examine Commission rules about communication with decision-makers (ex parte and other types of communication). Given the extensive discussion of rule changes going on in this committee, the types of communications logged in the future could change – for example, some practitioners recommended logging and/or noticing ex parte communications in quasi-legislative proceedings – but our aim at present is to improve the log's effectiveness under the existing rules.

Finally, we note that no other California or federal agencies appear to be maintaining similar logs.

Should the Commission continue to maintain a log?

Yes, provided fundamental changes are made.

The log was launched in late 2014 via then-Executive Director Paul Clanon's directive, in response to calls for greater transparency following the publication of e-mail exchanges between Commission decision-makers and regulated utilities. These e-mails included contacts not subject to ex parte rules and contacts that should have been disclosed under ex parte rules. The original directive required directors, and sought voluntary compliance from Commissioners and advisors, to report contacts with regulated utilities in ratesetting proceedings. Note that the log now contains communications with all parties to ratesetting proceedings (i.e., not just regulated utilities), which goes beyond the original directive, per voluntary practice.

IT built a basic log with a search tool, and the implementation details have been left to division directors, the executive director, and individual Commission offices. The Commission has not assigned an employee(s) the responsibility of cross-referencing between the log and proceeding docket cards or service lists, which is where parties' formal ex parte filings appear. Further, the Commission does not have a set of standard practices with respect to the log (e.g., some offices appear to log more contacts than others, and under different timelines).

We believe that the following reasons justify maintaining a communications log:

- Transparency: Division director meetings are logged; these meetings do not show up in ex parte filings.

- Accountability: If accurately maintained, the log is a source of accountability: anyone can check to see whether meetings held have been properly noticed by parties in the relevant docket(s).
- Completeness: A user can examine contacts across proceedings and across time for a decision-maker; that capability is not possible with individual docket cards.

How should the log be modified?

Focus group attendees reported low levels of use of the log and low levels of trust in its timeliness or the accuracy of the reported subject matter. Solutions to these concerns lie in (i) IT modifications, and (ii) standard practices, training and prioritization of the log by Commissioners and Commission staff.

Following is a list of technical and management-level changes offered by focus group attendees that we believe would enhance the value of the log. We have not yet vetted the technical ideas with IT to understand how easy/difficult they may be.

- User-friendliness: Plainer language, clear access to a full table of all contacts, link to the docket card where the notice of ex parte contact is filed.
- Accuracy and trustworthiness of content: Fillable forms that feed into a table showing all ex parte meeting requests, yes/no buttons showing the Commissioner office response to the request, automatic service of the request and notice on relevant service lists.
- Demonstration of Commission priority: Ways of demonstrating on the website that Commission staff are trained in and execute the ex parte communication rules, such as indicators showing the decision-maker reviewed the ex parte notice after filing to verify that the notice accurately reflects what was discussed in the meeting.

What direction will be needed from Commissioners?

As this project proceeds, Commissioners will have choices to make that will affect the content and features of the log. Following discussion with IT about a feasible scope, we will present a more thorough plan to this committee. The choices will include:

- Do Commissioners agree that the log adds value beyond present ex parte rules?
- Who is the target audience: the public, media, practitioners, other?
- Continue or modify logging by division directors?
- Continue or modify logging ex parte meetings with interested stakeholders (i.e., not only regulated utilities)?
- Expand the log to include other types of ex parte contacts, such as emails and letters?

Focus group attendee lists

CPUC Policy and Governance Committee

January 27, 2016

Commission staff attendees:

Bruce DeBerry, Division of Water and Audits
Kevin Dudley, Administrative Law Judge Division
Mary Claire Evans, Executive Division
Ravneet Kaur, Public Advisors Office
Amy Kochanowsky, Energy Division
Raminder Kahlon, Division of Water and Audits
William Maguire, Energy Division
Jeanne McKinney, Administrative Law Judge Division
Helen Mickiewicz, Legal Division
Patricia Miles, Administrative Law Judge Division
Arthur O'Donnell, Safety and Enforcement Division
Michaela Pangilinan, Communications Division
Claudio Portillo, Public Advisors Office
James Ralph, Legal Division
Sarah Thomas, Legal Division

Practitioner attendees:

Matt Barmack, Calpine
Stephanie Chen, The Greenlining Institute
Brad Heavner, California Solar Energy Industries Association
Marc Joseph, Adams Broadwell Joseph and Cardozo
Elizabeth Kelly, Marin Clean Energy
Tom Long, The Utility Reform Network
Vidhya Prabhakaran, Davis Wright and Tremaine
Linda Serizawa, Office of Ratepayer Advocates
Matt Vespa, Sierra Club
Phil Weismehl, Office of Ratepayer Advocates
Steve Weissman, University of California, Berkeley